

Judge Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

NHAT HOANG TRAN,
RASHPAL SINGH SANDHU,

Defendants.

NO. CR04-549 JLR

ORDER CONTINUING
TRIAL DATE

This matter having come before the undersigned Court through a status conference and by oral motion of counsel, Michael Filipovic, for defendant Rashpal Singh Sandhu, for continuance of the trial date; the United States, through the United States Attorney for the Western District of Washington, Susan M. Roe and Ye-Ting Woo, Assistant United States Attorneys for said district, having no objection to the request for continuance; and defendant Nhat Tran present and through counsel, David Roberson, having joined in the request, the Court being fully advised in the matter, having heard argument of counsel, having consulted with the defendants in court, and having considered the files and records herein, now finds that

The trial for these two remaining defendants was scheduled for May 2, 2005. The defendants are waiving their speedy trial rights until August 31, 2005, which is beyond the new trial date of August 22, 2005. The motion is made on

1 several bases: nearly all of the defendants have entered guilty pleas, including
2 five who have plead within ten days preceding this status conference. As these
3 defendants who plead are no longer part of the upcoming trial, all parties stand in
4 significantly different positions for trial.

5 The government must modify its case in chief to address primarily the
6 remaining defendants. The trial will not last a month as anticipated, but may
7 instead last one to two weeks.

8 The remaining defendants may no longer count on other defense counsel
9 to assist in meeting the government's charges, to handle the substantial
10 discovery, or to finish the preparations for trial.

11 There is a strong possibility that one of defendants, Nhat Tran, will resolve
12 his charges short of trial, however, his recent uncertainty regarding counsel has
13 delayed his resolution. At the status conference Mr. Tran affirmed retention of his
14 current counsel and the parties now may resume discussions of resolution.
15 Mr. Tran is in custody pending trial.

16 The other defendant, Rashpal Sandhu, is out of custody pending trial. His
17 liberty interest is less affected by this continuance.

18 All counsel have been diligent in addressing this matter but all parties
19 believe that this continuance is proper.

20 The continuances are necessary to ensure effective representation and
21 continuity of counsel for the remaining defendants.

22 The Court is aware that time limitations for trial and speedy trial concerns
23 are set forth in Title 18, United States Code, Section 3161.

24 Section 3161(h) outlines the periods of excludable time, including:

25 (8)(A) Any period of delay resulting from a continuance
26 granted by any judge on his own motion or at the
27 request of the defendant or his counsel or at the request
28 of the attorney for the Government, if the judge granted
such continuance on the basis of his findings that the
ends of justice served by taking such action outweigh
the best interest of the public and the defendant in a

1 speedy trial. No such period of delay resulting from a
2 continuance granted by the court in accordance with this
3 paragraph shall be excludable under this subsection
4 unless the court sets forth, in the record of the case,
5 either orally or in writing, its reasons for finding that the
6 ends of justice served by the granting of such
7 continuance outweigh the best interests of the public
8 and the defendant in a speedy trial.

9 In this matter, the Court finds that further time is reasonable and necessary
10 and that the requested time is within the speedy trial time period. Failure to grant
11 a continuance of the trial date would likely result in a miscarriage of justice. The
12 interests of the public and the defendants in a speedy trial in this case are
13 outweighed by the ends of justice, although the ends of justice, especially those
14 which deal with consideration of victims and witnesses, are not impacted by the
15 requested continuance. This trial has few civilians witnesses, other than co-
16 conspirators, and no known victims.

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1 NOW, therefore, the trial date is continued from May 2, 2005 until
2 August 22, 2005, and the time between this date and the new trial date be
3 excluded pursuant to the provisions of Title 18, United States Code, Sections
4 3161(h)(8)(A) as to each defendant.

5 Dated this 25th day of April, 2005.

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7 s/James L. Robart

8 JAMES L. ROBART
9 United States District Court Judge
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11 Presented by:

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